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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,275	01/16/2001	Madoka Yamauchi	F-6820	5600

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122 East 42nd Street
New York, NY 10168

EXAMINER

ASHBURN, STEVEN L

ART UNIT PAPER NUMBER

3714

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/761,275

Applicant(s)

YAMAUCHI ET AL.

Examiner

Steven Ashburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-11,13-16 and 18-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1,3-10 and 26-30 is/are allowed.
- 6) ☒ Claim(s) 11-16 and 18-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 13, 16, 18, 26, 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kazuhiro et al., European Patent Application EP 0917897 A2 (May 26, 1999) in view of Hideki et al., EP 0830881 A2 (Sep. 24, 1996).

Claims 11, 16 and 26. Kazuhiro discloses a video game having a technique setting program for causing a game character to perform techniques having different degrees of difficulty. The game includes a degree of difficulty setting unit for setting a degree of difficulty of a technique to be performed by a player character; a command guiding unit for guiding a command input for causing the player character to perform a technique corresponding to the set degree of difficulty; an operation unit for causing the player character to perform the technique according to the set degree of difficulty wherein the operation unit; an operable member for inputting a command in accordance with the command input given by the command guiding input an operable member operated by a game player for causing the mark changing unit to set the size of the mark in response to operations of the second operable member performed by the player within a predetermined time period; and an evaluating unit for evaluating the technique performed in accordance with a command given by the first operable member. *See fig. 1-8; ¶¶ 6-7, 13-18.*

In regard to the command guiding unit, Kazuhiro informs the player of the operations included in a selected action. *See ¶¶ 7, 18.* It is inherent that an action comprised of a plurality of operations is more difficult than an action comprised of a single operation. Thus, when a player is informed of the operations included in an action, the information corresponds to the degree of difficulty. However,

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Kazuhiro does not describe changing the size of a mark progressively in correspondence with a greater degree of difficulty of the technique. Regardless, this feature would have been obvious to an artisan at the time of the invention.

Hideki discloses an analogous game wherein a player controls the technique of hitting a golf ball. The degree of difficulty varies in proportion to the spacing of a golfer's feet set by a player. The degree of difficulty is indicated (i.e. marked) by a power meter and progressively changes corresponding the difficulty of the technique. *See fig. 18A, 18B; col. 6:3-14, 20:1-54.* In view of Hideki, it would have been obvious to an artisan at the time of the invention to modify the video game program describe by Kazuhiro, wherein a player controls the performance of techniques of differing difficulties, to add the feature of changing the size of a mark progressively in correspondence with a greater degree of difficulty of the technique. As taught by Hideki, the modification would enhance the game by providing a visual indicating the difficulty of performing the technique and thereby provide a more realistic simulation of the action.

Claim 13: Kazuhiro discloses changing the degree of difficulty mark through the operation of an operable member in conjunction with another operable member. *See fig. 2, 6; ¶ 50.*

Claim 18: Hideki discloses changing a mark corresponding to the degree of difficulty by operating an operable member in the operation unit. *See fig. 17A-18B; col. 20:1-26.*

Claims 14, 15, 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kazuhiro in view of Hideki, as applied to claims 11, 16 and 26 above, in further view of *Nagano Winter Olympics '98*, published by Konami Corp. (Jan. 29, 1998) (hereinafter "NWO-98").

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The features of *NWO-98* are described in the following references: *Nagano Winter Olympics '98 Manual*, downloaded from Internet on Oct. 4, 2002 <<http://www.cheatcc.com/psx/-manuals/-nagano.txt>> (hereinafter "*Nagano Manual*"), *Nagano Winter Olympics '98*, downloaded from Internet on Oct. 4, 2002 <<http://www.n64cc.com/-reviews/revnag.htm>> (hereinafter "*Nagano N64*") and *Nagano Winter Olympics '98*, downloaded from Internet on Oct. 4, 2002 <<http://www.ign64.ign.com/-articles/152/152259pl.html>> (hereinafter "*Nagano IGN*").

Claims 14, 15 and 19: The video game suggested by Kazuhiro and Hideki teaches all the features of the claims except a landing setting unit for causing a character to land. Regardless, the feature would have been obvious to an artisan in view of the prior art discussed below.

NWO-98 discloses an analogous video game that simulates techniques in a variety of sporting events. Similar to Hideki, the games employ an indicator for guiding a player in the performance of a technique. One event is ski jumping in which players' control the technique of landing a character. *See Nagano Manual*, pp. 9-10; *Nagano N64*, p. 2, ¶ 2-4; *Nagano IGN* p.1, ¶ 9. A landing setting unit displayed a meter in a partial area of the game screen image. *See id.* The meter includes a landing success zone wherein a movable mark indicates when to press a button enabling a character to land successfully if the landing mark is within the success zone. *See id.*

The combination Kazuhiro and Hideki suggests a video game in which players control the performance of a skiing event. In view of skiing game describe by *NWO-98*, it would have been obvious to an artisan at the time of the invention to modify the skiing game described by the combination of Kazuhiro and Hideki to add the feature of a landing setting unit causing a skier to land. As described in *NWO-98*, the modification would enhance the game by allowing simulation of a ski-jump event wherein a player must control to timing of landing. Furthermore, as suggested by Hideki using a timing indicator enhances the realism of performing a technique. *See col. 2:5-12.*

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Claims 21: Hideki teaches making the size of a success zone narrower as the degree of difficulty is set higher. *See fig. 18A, 18B; col. 6:3-15.*

Claims 20 and 22: Hideki teaches a command input area is set in a partial area of the game image and the command is displayed in the input area in the form of icons. *See fig. 3.*

Claim 23: NWO-98 additionally teaches giving a higher evaluation when a shorter time is required to input a command. *See Nagano Manual, pp. 9-10; Nagano N64, p. 2, ¶ 2-4; Nagano IGN p.1, ¶ 9.* More specifically, the higher difficulty techniques require players to perform longer and/or more complex maneuvers within a limited time to receive a higher evaluation. Hence, an effectively shorter time is given to input commands for higher difficulty techniques that generate higher evaluations.

Claim 24: NWO-98 teaches, if the input of a command is not completed within a predetermined time, causing the character to perform an action different from the action performed when the command is completed within the predetermined time (e.g. falling instead of landing). *See id.*

Claim 25: NWO-98 teaches causing the character to perform a complicated technique when the set degree of difficulty is high. *See id.*

Response to Arguments

Applicant's arguments regarding claims 11, 13-16 and 18-25 have been considered but are moot in view of the new grounds of rejection necessitated by the applicant's amendment.

Allowable Subject Matter

Claims 1, 3-10 and 26-30 are allowed. The following is a statement of reasons for the indication of allowable subject matter:

Claims 1, 5, 26 and 30 are allowable because, in addition to the other features of the independent claims, the prior art does not teach or suggest a video game having an operation unit for performing a technique according to a degree of difficulty in that is set accordance with a series of command inputs input by the player throughout the execution of the technique wherein the operation unit causes the mark changing unit to set the mark corresponding to the degree of difficulty in response to operations performed by the player within a predetermined time period. In comparison, rejected claims 11, 16 and 20 do not include the limitation that the mark corresponding to the degree of difficulty is set accordance with a series of command inputs input by the player throughout the execution of the technique

Claims 3, 4, 6-10 and 27-29 are allowable for being dependent upon an allowed base claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

s.a.



MARK SAGER
PRIMARY EXAMINER